UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,001	03/17/2000	Shiri Kadambi	P108339-00003	3385

			EXAMINER
32294	7590	03/20/2006	HOANG, THAI D

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ART UNIT	PAPER NUMBER
2668	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action **_Before the Filing of an Appeal Brief_**	09/528,001	KADAMBI ET AL.
	Examiner	**Art Unit**	
	Thai D. Hoang	2668	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>22 February 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>03</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

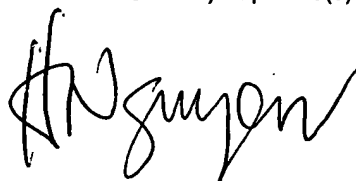   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-7</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

HANH NGUYEN
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Page 7 of the remarks, first paragraph, Applicants argue Muller I (Patent Number 5,909,686) does not teach the first stacking port and the second stacking port are communicatively connected through the first and second internet port interface controllers because "there are no additional elements shown or discussed in the transmission path after the stacking port 225". Examiner respectfully disagrees. Applicants are direct to col. 4, lines 50-53, wherein Muller discloses "An optional cascading interface 225 may include one or more internal links (not shown) for interconnecting switching elements to create larger switches". Thus, Muller clearly shows that a first switch communicates with a second switch through the interfaces 225.

Also, page 7, Applicants argue the IPIC is described in the specification "as including tables 9.1, a network buffer pool (NBP) 92, and arbiter 93, and flow control logic 94. Muller I does not teach any sort of an IPIC having these components". Examiner believes that this argument is not relevant because it is directed to subject matter not found in the claims.

Page 8 of the remarks, Applicants argue, "the office action does not indicate what elements described in Muller correspond to the elements recited in the rejected claims." Examiner respectfully disagrees. The office action clearly shows what Muller disclosed in parallel with the limitation recited in the claim, which is put in the parenthesis.

Page 9, Applicants argue, "the Office Action does not indicate any particular citation to a column or paragraph of Muller I that supports a broad conclusion" as shown in the office action. Examiner respectfully disagrees. The office action clearly shows twice on pages 3 and 6. Also, Applicants argue, "there is no teaching or disclosure that the packet headers have a module ID field added to the header by the first network switch." Examiner believes all data packets transmit in a packet switching system must have a header, which includes an ID field. It is a fundamental concept to one of ordinary skill in the art.

Regarding claims 3-6, pages 11-13, Applicants argue there is no teaching or suggestion to combine references. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Muller I and Muller II are the same system (see figure 1 of Muller II and figure 2 of Muller I), wherein Muller II describes and claims element 220 of the Muller I.

Page 14, Applicants argue, "the flow control logic is more than a buffer memory controller that simply controls access to a memory, the flow control logic operates to check bits in the packet header and control packet flow." Examiner believes that this argument is not relevant because the claim 4 did not recite "check bits" function.